

§ 417.18

the conduct of a hearing and vote upon the removal of officer(s) under the supervision of the Assistant Secretary as provided in section 402(b) of the Act.

[59 FR 65717, Dec. 21, 1994]

§ 417.18 Hearings—removal of officers of local labor organizations.

Hearings pursuant to order of the court and concerning the removal of officers under section 402(b) of the Act shall be for the purpose of introducing testimony and evidence showing why an officer or officers accused of serious misconduct should or should not be removed. Hearings shall be conducted by the officers of the labor organization (subject to § 417.19) in accordance with the constitution and bylaws of the labor organization insofar as they are not inconsistent with title IV of the Act, or with the provisions of this part 417: *Provided, however,* That no officer(s) accused of serious misconduct shall participate in such hearings in any capacity except as witness or counsel.

§ 417.19 Assistant Secretary's representative.

The Assistant Secretary shall appoint a representative or representatives whose functions shall be to supervise the hearing and vote. Such representative(s) shall have final authority to issue such rulings as shall be appropriate or necessary to insure a full and fair hearing and vote. Upon his own motion or upon consideration of the petition of any interested person the Assistant Secretary's Representative may disqualify any officer(s) or member(s) of the union from participation in the conduct of the hearing (except in the capacity of witness or counsel).

[29 FR 8264, July 1, 1964, as amended at 29 FR 8480, July 7, 1964]

§ 417.20 Notice of hearing.

Notice of hearing, not less than 10 days in advance of the date set for such hearing, shall be transmitted to the officer or officers accused of serious misconduct and other interested persons, insofar as they are known, and shall inform them of (a) the time, place, and nature of the hearing; (b) the legal au-

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thority and jurisdiction under which the hearing is to be held; (c) the matters of fact and law asserted; and (d) their rights to challenge the appointment of certain of, or all of, the officers of the union to conduct the hearing in accordance with this subpart. The labor organization shall promptly inform its members of the provisions of the notice. Copies of the notice shall be made available for inspection at the office of the labor organization.

§ 417.21 Transcript.

It shall be within the discretion of the Assistant Secretary to require an official reporter to make an official transcript of the hearings. In the event he does so require, copies of the official transcript shall be made available upon request addressed to the Assistant Secretary in accordance with the provisions of part 70 of this title.

[50 FR 31310, Aug. 1, 1985, as amended at 63 FR 33779, June 19, 1998]

§ 417.22 Vote among members of the labor organization.

Within a reasonable time after completion of the hearing, and after proper notice thereof, a secret ballot vote shall be conducted among the members of the labor organization in good standing on the issue of whether the accused officer or officers shall be removed from office. The vote shall be in accordance with the constitution and bylaws of the labor organization insofar as they are not inconsistent with the provisions of the Act or this part 417. The presiding officer or officers at the taking of such vote shall entertain objections or suggestions as to the rules for conducting the vote, eligibility of voters, and such other matters as may be pertinent; and shall rule on such questions, shall establish procedures for the conduct of the vote, and for tabulation of the ballots; and shall appoint observers and compile a list of eligible voters. All rulings of the presiding officer or officers shall be subject to the provisions of § 417.19.

§ 417.23 Report to the Assistant Secretary.

Following completion of the hearing and vote, the Assistant Secretary's Representative shall file a report with

the Assistant Secretary setting out the results of the balloting; and pertinent details of the hearing and vote. Notice thereof shall be given to the membership of such labor organization promptly and copies shall be furnished to all interested parties.

§ 417.24 Appeal to the Assistant Secretary.

(a) Within 15 days after mailing of the report of the Assistant Secretary's Representative, any interested party may appeal the conduct of the hearing or vote or both by filing written exceptions with the Assistant Secretary. Blanket appeals shall not be received. Impertinent or scandalous matter may be stricken by the Assistant Secretary, or an appeal containing such matter or lacking in specifications may be dismissed.

(b) Upon review of the whole record, the Assistant Secretary shall issue a decision or may order further hearing, a new vote, or such further proceedings as he deems appropriate.

[29 FR 8264, July 1, 1964, as amended at 50 FR 31310, Aug. 1, 1985]

§ 417.25 Certification of results of vote.

Upon receipt of the report of the Assistant Secretary's Representative on the hearing and vote on removal, the Assistant Secretary shall certify the results of the vote to the court as required by section 402(c) of the Act.

PART 451—LABOR ORGANIZATIONS AS DEFINED IN THE LABOR-MANAGEMENT REPORTING AND DISCLOSURE ACT OF 1959

Sec.

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AUTHORITY: Secs. 3, 208, 401, 73 Stat. 520, 529, 532 (29 U.S.C. 402, 438, 481); Secretary's Order No. 5-96, 62 FR 107, January 2, 1997.

SOURCE: 28 FR 14388, Dec. 27, 1963, unless otherwise noted.

§ 451.1 Introductory statement.

(a) This part discusses the meaning and scope of sections 3(i) and 3(j) of the Labor-Management Reporting and Disclosure Act of 1959¹ (hereinafter referred to as the Act). These provisions define the terms "labor organization" and "labor organization * * * in an industry affecting commerce" for purposes of the Act.²

(b) The Act imposes on labor organizations various obligations and prohibitions relating generally, among other things, to the reporting of information and election and removal of officers. Requirements are also imposed on the officers, representatives, and employees of labor organizations. In addition, certain rights are guaranteed the members thereof. It thus becomes a matter of importance to determine what organizations are included within the applicability of the Act.

(c) The provisions of the Act, other than title I and amendments to other statutes contained in section 505 and title VII, are subject to the general investigatory authority of the Secretary of Labor embodied in section 601³ (and delegated by him to the Assistant Secretary), which empowers him to investigate whenever he believes it necessary in order to determine whether any person has violated or is about to violate such provisions. The correctness of an interpretation of these provisions can be determined finally and authoritatively only by the courts. It is necessary, however, for the Assistant Secretary to reach informed conclusions as to the meaning of the law to enable him to carry out his statutory

¹73 Stat. 520, 521, 29 U.S.C. 402.

²It should be noted that the definition of the term "labor organization," as well as other terms, in section 3 are for purposes of those portions of the Act included in titles I, II, III, IV, V (except section 505) and VI. They do not apply to title VII, which contains amendments of the National Labor Relations Act, as amended, nor to section 505 of title V, which amends section 302 (a), (b), and (c) of the Labor Management Relations Act, 1947, as amended. The terms used in title VII and section 505 of title V have the same meaning as they have under the National Labor Relations Act, as amended, and the Labor Management Relations Act, 1947, as amended.

³Sec. 601, 73 Stat. 539, 29 U.S.C. 521.